



## CITY OF WASHINGTON, ILLINOIS

### City Council Agenda Communication

**Meeting Date:** March 20, 2023

**Prepared By:** Jon Oliphant, AICP, Planning & Development Director

**Agenda Item:** Second Reading Ordinance – 2023 Sidewalk and Curb Replacement Pilot Program

**Explanation:** City Code allows for what is commonly called the “50/50 sidewalk program.” Residents who want to replace their degrading sidewalk can apply for this 50/50 match program and either hire a contractor or have the City or our contractor replace it. The City then reimburses at a rate equivalent to 50% of our commodities bids.

Prior discussion at Committee of the Whole meetings included interest in increasing the City’s share of sidewalk and curb replacement projects to 70% as part of a 2023 pilot program. The consensus of discussion at the March 6 City Council meeting was to increase the City’s share to 70% for all eligible projects in 2023 regardless of their location. As a result, the attached ordinance reflects this change.

There had been interest in allowing for the property owner to either pay its share in whole within 60 days of completion or to enter into a Special Service Area (SSA) agreement to allow for equalized annual payments for up to ten years. The cost to the property owner(s) would be placed on the property tax bill in a similar manner to the SSA’s established for recent infrastructure improvements on N. Lawndale and W. Holland. After discussing this further with our City Attorney, it is staff’s recommendation to not include such a provision because of the anticipated attorney and staff time that would be required to establish each SSA and the relatively low property owner cost for the replacements. The draft ordinance includes language that offers a property owner the option of spreading the payments over two years with 6% interest, compounded annually. Similar language currently exists in Chapter 152 (Subdivision Code) as part of the 50/50 program, with the owner able to spread those costs over a period of up to five years. While this option is offered, no property owner has previously exercised it and all owner costs.

A separate ordinance is planned that would transfer some of the existing 50/50 program language from Chapter 152 to Chapter 98 (Streets and Sidewalks). That would separate the curb and sidewalk replacement program, which covers existing infrastructure, in Chapter 98, from new sidewalks and curbs, which covers new infrastructure, in Chapter 152. Because it involves the Subdivision Code, a public hearing is required at a Planning and Zoning Commission meeting before it could be brought to the City Council for approval.

**Fiscal Impact:** The FY 22-23 budget includes \$16,000 for the sidewalk replacement program. Staff plans to increase that amount to \$40,000 to account for possible additional City costs following the deployment of a 2023 program. At an approximate cost of \$10 per square foot, the City could potentially assist with the replacement of about 5,700 square feet of sidewalk within the targeted area if all of the recommended budget funds were utilized. That likely would not happen but the budget will reflect the possibility of much of that occurring plus other replacement projects outside of the targeted area. These funds would be utilized on a first-come, first-served basis. A wait list would be created should there be more interest than the budget allows and would assist with identifying any program or budgetary changes for 2024.

**Action Requested:** Approval of the attached ordinance. A first reading ordinance was held at the March 6 City Council meeting and a second reading is scheduled for March 20.

ORDINANCE NO. \_\_\_\_\_

(Synopsis: Approval of this ordinance would increase the City of Washington's financial contribution to 70% for any eligible sidewalk and curb replacement projects in 2023).

**AN ORDINANCE AMENDING CHAPTER 98 OF THE CITY CODE, STREETS  
AND SIDEWALKS, TO ADD A NEW PILOT SIDEWALK AND CURB  
REPLACEMENT PROGRAM**

**WHEREAS**, the City of Washington (the "City") has previously established a sidewalk and curb replacement program set forth in the Subdivision Code; and

**WHEREAS**, the City has determined that a new pilot sidewalk and curb replacement program is needed for the City to incentivize property owners to utilize the program; and

**WHEREAS**, the City has determined that the new pilot sidewalk and curb replacement program is better suited for inclusion in Chapter 98 of the City Code; and

**WHEREAS**, the City Council has determined it is in the best interests of the City and the public interest to amend Chapter 98 of the Municipal Code of the City of Washington to codify a new pilot sidewalk and curb replacement program therein.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Washington, Illinois as follows:

Section 1: The recitals; as set forth above, are incorporated herein as though fully set forth and shall be considered the express findings of the City Council.

Section 2: That Chapter 98 of the City Code of the City of Washington, Tazewell County, Illinois, be, and the same hereby is amended by adding Section 98.155 as follows:

**"SIDEWALKS**

**§ 98.155 SIDEWALKS**

**(A) 2023 Pilot Sidewalk and Curb Replacement Program - Payment by Private Property Owner(s): The Pilot Sidewalk and Curb Replacement Program (the "Program") provides residential property owners with an opportunity to replace defective sidewalks and/or curbs abutting his or her property, for thirty percent (30%) of the total cost, so long as the defective sidewalks/curbs meet the criteria set forth herein. The City shall be responsible for the remaining seventy percent (70%) of the total cost. The Program is only available for the replacement of defective curbs and sidewalks, as driveway aprons or walkways between the sidewalk and street (carriage walks) do not qualify. To ensure fairness, requests for replacement under the Program will be processed on a first-come, first-served basis. The City reserves the right to accept, defer, or reject requests for replacement,**

in its sole discretion and subject to budgetary constraints. Once all budgeted funds for the Program have been used in the year 2023, the Program will be closed. After the year 2023, the City Council may approve the Program's continuance with the allocation of additional funds to the Program.

The City shall participate in the cost of replacement of sidewalks and/or curbs in accordance with the following criteria:

1. For replacement sidewalk/curb installed by the City or by a City-awarded contractor (not applicable to properties where sidewalk construction is otherwise regulated by the Subdivision Code, Zoning Code, or Building Code):

Option 1: The abutting property owner may elect to pay the City thirty percent (30%) of the total cost at the time of replacement. The City shall pay the remaining seventy percent (70%). The sidewalk and/or curb replacement shall not begin until the City receives the abutting property owner's thirty percent (30%) share of the total cost.

Option 2: The abutting property owner may elect to pay the City thirty percent (30%) of the total cost, plus six percent (6%) interest, compounded annually, which may be spread over a period of not-to-exceed two (2) years, beginning in the year of replacement. The City shall pay the remaining seventy percent (70%). If this payment option is elected by the abutting property owner, then in the City's sole discretion, the abutting property owner may be asked to execute an agreement and/or promissory note to codify the property owner's payment obligations. If the abutting property owner refuses to execute any such documentation requested by the City, then such property owner may only participate in the Program by utilizing payment Option 1 set forth herein.

2. In order to be placed in the City's Program, the sidewalk and/or curb must be in Poor or Very Poor condition. The following identifies and lists Poor or Very Poor conditions:

- a. Poor condition sidewalks are those which have cracks greater than three-eighths inch (3/8") wide and greater than three-eighths inch (3/8") vertical separation between squares or cracks within the same square, significant surface scaling or pitting, broken sections of sidewalk are loose and shift easily under the weight of walking, and/or some sections may be entirely missing. Poor condition curb would have multiple spalls per panel.

- b. Very Poor condition sidewalks are those which have cracks greater than one and one-eighths inch (1 1/8") wide or one and one-eighths inch (1 1/8") vertical separation between squares or cracks within the same square, excessive cracking, scaling or pitting, and/or sections of broken sidewalk can be lifted out or are entirely missing. Very Poor condition curb would have excessive spalling and exposed reinforcement per panel.

3. If more than one lot, block, tract, or parcel of land touches the sidewalk and/or curb subject to the Program, the other property owner must agree to participate in the Program and then the Public Works Director or his designee shall apportion the property owner's cost of the repair of the sidewalk/curb among them based on the amount of frontage each parcel has with the sidewalk/curb.

4. If the abutting property owner fails to pay the owner's share (thirty percent (30%) of the total cost) or misses an installment payment pursuant to payment Option 2 set forth herein, then after providing written notice to the property owner, the City has the right to place a lien on the property owner's real estate abutting the sidewalk. The lien shall be superior to all prior existing liens and encumbrances, except taxes; the City Attorney may file a notice of lien for the property owner's cost in the office of the recorder of deeds of the county. Upon payment of the cost, the lien shall be released by the City Attorney.

- a. The lien may be enforced by proceedings to foreclose as in the case of mortgages or mechanics' liens. Suit to foreclose this lien shall be commenced by the City Attorney within three years after the date of filing of the notice of lien.
- b. If the abutting property owner's payment obligation is not fulfilled and paid in full, the City Attorney may commence proceedings in the circuit court seeking a personal judgment from the owner of the subject property.
- c. The abutting property owner shall be liable for the City's costs in recording the lien, which shall be \$50.00 plus the recorder's fee.
- d. The City may also elect to pursue any other legal remedies available to it, should an abutting property owner fail to pay his or her share of the total cost of the respective sidewalk/curb.

**(B) Reimbursement of Cost of Materials for Use of Private Contractor: In the case where a private property owner enters into an agreement with a private contractor to replace sidewalk and/or curb located within a City-owned right-of-way, subject to prior approval of the City, the City will reimburse the property owner an amount equal to the actual cost of materials only based on the City's final inspection measurements. The sidewalk and/or curb must be in Poor or Very Poor condition as described herein this Section 98.155. The amount of material reimbursement is based on the City's annual concrete bid price per lineal foot and the City's final inspection measurements. Sidewalk replacement is typically reviewed and replaced per full square panel, typically four feet by five feet (4'x5'). Curb replacement is typically reviewed and replaced per full jointed segment, typically ten to fifteen feet (10-15')."**

Section 3: All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed insofar as they are in conflict with this ordinance.

Section 4: If any provision of this ordinance is adjudged invalid, such adjudication shall not affect the validity of the ordinance as a whole or of any portion not adjudged invalid.

Section 5: This ordinance shall be in full force and effect from and after its passage, approval and publication as required by law.

**PASSED AND APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_ 2023.

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY CLERK